

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.7325 of 2017
Date of decision:01.02.2018

Ashok Kumar Jain and another ... Petitioners

Vs.

Ajai Jain and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jai Vir Yadav, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 12.04.2017 (Annexure P-3), whereby, the application moved by the petitioner-defendants under Order 7 Rule 11 read with Section 151 CPC, for rejection of the plaint on the grounds stated therein, has been dismissed.

Learned counsel for the petitioners submitted that the respondent-plaintiffs instituted a suit seeking following relief:

“i) Pass decree of permanent and mandatory injunction in favour of plaintiff and against the defendants, its agents, representative, power of attorney holder, its servants, is substitute, its broker or any other person on behalf of defendant to not to dispossessed the plaintiffs without due process of law from the property being “Abhinandan Farm” constructed at Ansal Palam Vihar, behind Chiranjeev Bharti

School, Gurgaon, Haryana;

ii) Pass decree of permanent and mandatory injunction in favour of plaintiffs and against the defendants, its agents, representative, power of attorney holder, its servants, is substitute, its broker or any other person on behalf of defendants to not to interfere in the free and peaceful enjoyment of the plaintiffs in the property being “Abhinandan Farm” constructed at Ansal Palam Vihar, behind Chiranjeev Bharti School, Gurgaon, Haryana;

iii) Pass decree of permanent and mandatory injunction in favour of plaintiffs and against the defendants, its agents, representative, power of attorney holder, its servants, is substitute, its broker or any other person on behalf of defendants to not to demolish/alter/construct any part of property being “Abhinandan Farm” Ansal Palam Vihar, behind Chiranjeev Bharti School, Gurgaon, Haryana; without the due process of law.

iv) pass any other decree/order or direction as this Court may deem fit and proper in facts and circumstances of the case.”

In fact, it has categorically been stated in the application that the disputed land had already been acquired by the State Government and compensation had been taken by the defendants, therefore, the suit was not maintainable but the Court below has not appreciated the aforementioned

submission, though the application was supported by the documents.

I have heard the learned counsel for the petitioner-defendants, appraised the paper book and of the view that the relief sought was for simpliciter injunction and no ownership has been claimed. If at all there is force and truthfulness in the contention of the petitioner-defendants *vis-a-vis* acquisition of land and withdrawal of compensation, in my view, they would not have any interest in the land, for, as per the provisions of Section 16 of erstwhile Land Acquisition Act, 1894, possession is deemed to be in favour of the beneficiary of the Government, who acquired the land.

For the reasons aforementioned, I do not find any illegality and perversity in the order under challenge, much less, the same cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

February 01, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No